



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.11.2017

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CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1370 of 2015

and

M.P. (MD) .No.4 of 2015

National Insurance Company Limited,
Through its Divisional Manager,
No.3, North Veli Street,
Madurai.

... Appellant

Vs.

1.K.Paneer Selvam
2.Sevuga Rathinam

(Since no relief is sought against
2nd respondent, the impleading legal
heirs is not necessary)

(He was set exparte in the Trial Court
.Hence given up)

... Respondents

Prayer: This Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 23.09.2010 passed in M.C.O.P.No.1673 of 2007 on the file of the Motor Accident Claims Tribunal/1st Additional Sub Judge, Madurai.

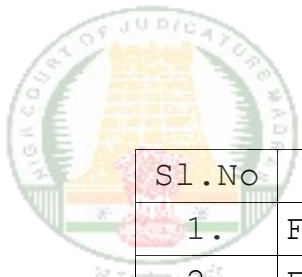
For Appellant : Mr.P.Malini

For Respondent : Mr.S.Mahesh Babu for R1
R2-Given up

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed this appeal on the ground of quantum. The first respondent suffered injuries in an accident involving a two-wheeler insured by the appellant. The doctor has certified that the claimant suffered 44% partial permanent disability. But there is nothing on record to show that the claimant suffered functional disability. Therefore adopting the quantum of compensation awarded is clearly erroneous. The compensation payable to the claimant will have to be reworked as under:-



Sl.No	Heads	Amount in Rupees
1.	For loss of income	Rs. 10,000/-
2.	For transport expenses	Rs. 5,000/-
3.	For extra Nourishment	Rs. 5,000/-
4.	For attendant Charges	Rs. 5,000/-
5.	For medical expenses	Rs.1,25,000/-
6.	For Pain and sufferings	Rs. 25,000/-
7.	For Disability	Rs.1,50,000/-
	Total	Rs.3,25,000/-

3. Therefore the compensation payable to the claimant will have to be reduced from Rs.4,39,226/- to Rs.3,25,000/- The award dated 23.09.2010 made in M.C.O.P.No.1673 of 2007 on the file of the Motor Accident Claims Tribunal/1st Additional Sub Judge, Madurai is modified accordingly.

4. The appellant is directed to deposit the entire compensation amount of Rs.3,25,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal. The insurance company is permitted to withdraw the same.

5. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

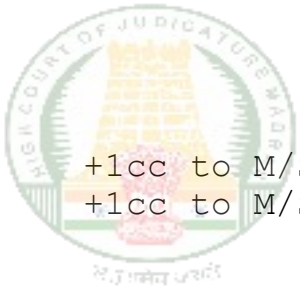
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Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal/
First Additional Sub Judge, Madurai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



+lcc to M/S.P.Malini, Advocate SR.No. 85430
+lcc to M/S.S.Mahesh Babu, Advocate SR.No. 85671

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C.M.A. (MD) No.1370 of 2015
and
M.P. (MD) .No.4 of 2015
04.11.2017

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